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SUBJECT: FOURTH TIFA RENEWS DIALOGUE FOR EXPANDING TRADE  
WITH TURKEY

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1. (SBU) Summary: The fourth meeting of the U.S.-Turkey Trade and Investment Framework Agreement (TIFA) Council held January 24 in Ankara was an opportunity for the U.S. and Turkey to discuss ways to revive our bilateral trade relationship in an open and positive dialogue. Along with the specific issues of market access, taxation, IPR protection, Qualifying Industrial Zones (QIZs), the GSP program and U.S. anti-dumping cases, both sides stressed the potential for trade expansion more than continuing differences. Both sides left with a greater understanding of the other's views and a renewed interest in cooperating on trade and investment issues. End summary.

2. (SBU) The fourth meeting of the US-Turkey Trade and Investment Framework Agreement (TIFA) Council convened January 23 - 24 in Ankara. This was the first Council held since 2001, although the 1999 TIFA called for annual meetings. Assistant USTR Shaun Donnelly led the U.S. delegation, which included representatives from the Departments of State, Commerce and Agriculture. GOT Foreign Trade Under Secretary Tuncer Kayalar led the Turkish delegation, which included representatives of the Ministries of Health, Agriculture and Foreign Affairs, and the Turkish Sugar Board. The meetings comprised a morning plenary session and a working luncheon with the two delegation heads. An afternoon session discussed technical issues at the working level. AUSTR Donnelly met on the margins with the Under Secretary of the Ministry of Agriculture (ref B) and

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with officials of the Turkish Federation of Chambers of Commerce and Industry (TOBB). A breakfast meeting with the U.S. business community in Turkey was cancelled for unavoidable logistical reasons.

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Desire for Expanded Trade Sets Positive Tone

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¶3. (SBU) In the morning plenary session, Donnelly and Kayalar stressed the importance of the bilateral relationship and a desire for it to expand beyond the traditional military and political partnership. Kayalar's presentation emphasized the growth and stability that Turkey's economy has enjoyed since the 2001 financial crisis. He pointed out, however, that despite this growth, the level of trade between the US and Turkey is far below its potential, with the Turkish share of U.S. imports only 0.3% and the U.S. share of Turkey's imports only 4.6%, and both countries losing market share in the other. In order to build Turkish exports to the United and Western Hemisphere, Kayalar noted that 2006 marks the beginning of the Department of Foreign Trade's "Year of the Americas" trade promotion strategy (ref B).

¶4. (SBU) Donnelly similarly emphasized the potential for expanding the bilateral trade relationship. He noted Turkey's positive economic growth and the resolution of several longstanding disputes involving US companies. He commended the GOT for its steps to address many of the issues that the USG has raised regarding protection of intellectual property and congratulated Turkey for the recent start of formal EU accession talks, noting that the U.S. has supported Turkey's integration into the European Union for more than forty years. Donnelly encouraged continued reforms that strengthen investor confidence and attract businesses to Turkey.

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Discussion of Specific Issues  
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¶5. (SBU) Regarding Turkey's specific areas of concern, Kayalar mentioned the long-standing anti-dumping cases that have been brought against Turkey and expressed

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Turkey's concerns regarding the Byrd Amendment. He requested USG support for a GSP competitive needs limit waiver for Turkish exports of travertine marble to the U.S. Finally, on the long-standing idea of the creation of Qualifying Industrial Zones (QIZs) in Turkey, Kayalar stated that this subject had been on the agenda for many years, but that it remained the FTU's opinion that QIZs would only make economic sense for Turkey if they allowed for duty free export to the United States of a broad spectrum of textile products. He asked for U.S. clarification of its views on whether or not this issue should remain on the bilateral agenda or be dropped.

¶6. (SBU) For the U.S. part, Donnelly raised the local U.S. cola companies' concerns about the "special consumption tax" Turkey levies on cola beverages and the inability of U.S. companies to access sweeteners at internationally competitive prices under Turkey's current sugar regime. On IPR, he praised Turkey for finally implementing data-exclusivity regulations, but noted that the 2005 regulations fall short of Turkey's obligations under the WTO TRIPS agreement. Donnelly added that U.S. research-based pharmaceutical companies continue to have concerns regarding the fate of approximately 35 products for which generic applications were filed prior to the January 1, 2005 start of the new law. Regarding QIZs, Donnelly noted the political sensitivity of textile imports for the U.S. and the fact that a QIZ program for Turkey would require legislative action. Finally, regarding agriculture, Donnelly discussed in general terms the current WTO bilateral consultations on Turkey's rice import regime and expressed concern at Turkey's failure to issue regulations governing the importation of meat, poultry and beef, which effectively prevents such imports.

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WTO: Cooperation on NAMA Possible  
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¶7. (SBU) Explaining Turkey's views on the Doha Round negotiations, Kayalar said the GOT is concerned about its agricultural sector, which accounts for about 30% of total employment, and wants to see market access changes affecting developing countries (such as Turkey) phased in over as long a period of time as possible. Turkey supports the phase out of export subsidies by developed countries. On non-agricultural market access (NAMA) issues, Turkey considers itself a developed and competitive country in the market and could possibly find ways to cooperate with the U.S. on these issues during the Doha Round. Donnelly noted that Turkey was well positioned to be a major beneficiary of the new trade flows that an agreement would unleash and stated that the U.S. understands the sensitivity of the agricultural sector to many countries, including Turkey. He explained, however, that until meaningful agreement is reached on agriculture, the Doha Round cannot move forward on NAMA and services.

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Technical Discussions  
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¶8. (SBU) In the afternoon "technical discussions" that did not include the two delegation heads, USTR Director Lisa Errion and representatives from the Departments of Commerce, State and Agriculture met with Turkish officials (almost twenty) to discuss in detail the issues raised by the principals during the morning discussions. Turkish officials were not prepared to discuss meat or livestock import regulations during the technical discussions and suggested a separate meeting at a later date. In addition, the WTO rice case was not discussed during the afternoon discussions.

Cola Taxation and Sugar Law  
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¶9. (SBU) The U.S. side raised two issues of concern to the U.S. soft drink industry in Turkey: discriminatory taxes on cola and the high cost of sweeteners due to domestic production quotas and high import duties for

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starch-based sweeteners. On the tax issue, GOT officials stated that the total tax on cola drinks is 46% and that these taxes are levied on all carbonated soft drinks, not just colas. As such, they argued that there is no discriminatory treatment as compared with other beverages sold in Turkey because they do not consider juices, coffees, and waters as direct substitutes for soft drinks.

¶10. (SBU) Regarding the cost of sweeteners, GOT officials reported reductions to two discrete tariff lines related to starch-based sugar and argued that liberalizing imports of these items would create more supply in the market. They also touted a 2005 increase in the domestic fructose production quota from 10% to 15% of sugar production as creating new supply for the industry. More in-depth discussion revealed, however, that the tariff lines in question have no relevance to the products needed by this industry. Even with the increase in the production quota, there is still significant excess production capacity in the Turkish fructose industry and insufficient domestic fructose supply. In response to a question from the U.S. side about allegations that a Turkish cola-producer was illegally producing fructose, a representative of the Sugar Board reported that Turkish cola maker Ulker was

recently fined and made to cease in-house production of fructose outside of the sugar regime. The U.S. side requested that the Foreign Trade Undersecretariat extend its good offices to meet with representatives from the U.S. beverage manufacturers to discuss these issues in more depth, and FTU officials indicated they would be happy to do so.

Daimler-Chrysler  
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¶11. (SBU) The U.S. side raised concerns about an increase in the taxation of imports of Daimler Chrysler's Voyager minivan from 10% to 84% following a customs reclassification of the vehicle. GOT officials said they reclassified the Voyager from 8704 (commercial vehicle) to HS code 8703 (passenger vehicle) based on an opinion received from the World Customs Organization (WCO). While most vehicles in that category are subject to a tax rate of 10%, the Voyager's weight, capacity, and engine size put it in a category of a luxury vehicle which is assessed a tax rate of 84%. The Turkish side alluded to an outstanding court case on this issue. The U.S. side indicated that it intended to discuss the matter in greater detail with the company and would follow up on the issue at a future date through the U.S. Embassy.

IPR  
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¶12. (SBU) The U.S. expressed its concerns about the Turkish legislature's consideration of a proposed amendment to Turkey's patent law that reportedly would weaken patent protection in Turkey (ref C). Concerns regarding the current draft legislation include: lack of patent term restoration for regulatory delay to ensure the internationally required 20 year term of patent protection for pharmaceuticals; compulsory licensing provisions that appear inconsistent with TRIPs; and lack of a clear right of action against those using infringing products. Representatives of FTU and the Turkish Patent and Trademark Office said that they share our misgivings and that they are urging the legislature to prevent its passage.

¶13. (SBU) The U.S. side also reiterated points made by Donnelly in the morning session about the research-based pharmaceutical companies' concerns regarding data exclusivity. Turkish officials indicated that the 35 generic applications submitted in late 2004 just before the new DE regulations went into effect are being reviewed, but this review does not necessarily mean that they will subsequently be approved. The Turkish side argued that, under European Customs Union (ECU) regulations, Turkey cannot differentiate itself from other ECU countries and thus the data exclusivity period

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must begin with the first marketing approval in an ECU country.

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Comment: Positive Tone Renews Interest in Cooperation  
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¶14. (SBU) This TIFA Council meeting restored the bilateral dialogue on trade issues and provided an opportunity to discuss future cooperation.  
WILSON